

PUBLIC NOTICE

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINISTRATION
BUREAU OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION
51 N STREET, N.E., 5th Floor
WASHINGTON, D.C. 20002**

Subject: Triennial Review of Water Quality Standards – Request for Comments

As required by federal law and regulation, Clean Water Act, section 303(c)(1) and 40 CFR 131.20, every three years each State must review, with public participation, its water quality standards. The water quality standards consist of designated uses for each water body and criteria to support those uses.

This Notice is issued to obtain comments for consideration in the upcoming Proposed Rulemaking of the revised D.C Surface Water Quality Standards. The Department is beginning this review by publishing this Notice in the D.C. Register. A hard copy of the 2003 District of Columbia Surface Water Quality Standards is on file in the Martin Luther King, Jr. Library, Washington, D.C. 20001, for your review during normal business hours. In addition, the D.C. Surface Water Quality Standards may also be obtained by calling the Water Quality Division at (202) 535-2190 between the hours of 9:00 am and 3:00 pm. The Department welcomes your comments on the water quality standards for this Triennial Review.

Persons wishing to submit comments may do so by mail to the above address, within 45 days of this Public Notice, attention Ms. Jerusalem Bekele, Program Manager. Such written comments are to be clearly marked "2003 D.C. WQS Triennial Review Comments" and mailed by July 14, 2003. The Department will consider the comments received to revise the Water Quality standards for this Triennial Review.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE AND SECURITIES REGULATIONS

IN THE MATTER OF:
THE RECIPROCAL
OF AMERICA,
THE RECIPROCAL GROUP

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Order Number S0-03-2

ORDER
OF SUSPENSION

The Reciprocal of America is a foreign insurer holding a Certificate of Authority in the District of Columbia. On January 29, 2003 the Circuit Court of the City of Richmond, issued an Order of Receivership for The Reciprocal of America, The Reciprocal Group, based upon the finding that the continuation of its business will be hazardous to the policyholders, creditors and the public.

It is the finding of the Commissioner, Department of Insurance and Securities Regulation pursuant to D.C. Official Code, §31-2502.03(a)(2001 ed.), that the Certificate of Authority authorizing The Reciprocal of America, The Reciprocal Group, a corporation of the Commonwealth of Virginia, to transact the business of insurance in the District of Columbia is hereby suspended, and further it is hereby ordered that all appointments of agents with The Reciprocal of America, The Reciprocal Group are suspended, and in the event said Certificate of Authority and appointments have not been reinstated within one (1) year from the date of this Order, same shall be automatically revoked without further action by the Department.

810 First Street NE, #701 · Washington DC 20002 · (202) 727-8000 · Fax (202) 535-1207

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd Floor, West Tower
WASHINGTON, D.C. 20005**

NOTICE

**FORMAL CASE NO. 813, IN THE MATTER OF THE POTOMAC ELECTRIC
POWER COMPANY FILING OF THE 1991 UPDATED SCHEDULE "CG-SPP"**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice that it will not take final rulemaking action on the Potomac Electric Power Company's ("Pepco") proposed revision to Schedule CG-SPP to include "Schedule CG-SPP – Cogeneration and Small Power Production Interconnection Service."

2. On March 3, 2003, Pepco filed an application to revise its tariff Schedule CG-SPP. The Commission solicited public comments by publishing a Notice of Proposed Rulemaking ("NOPR") at 50 *D.C. Reg.* 2350 (2003). No comments were received in response to the NOPR. However, as explained in more detail in Order No. 12736, the Commission determined that approval of the tariff would not be in the public interest and rejected Pepco's application. Therefore, no final rulemaking action will be taken.

Office of the Secretary of the
District of Columbia

May 15, 2003

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after June 15, 2003.

Alonge, Jean B.	New	First Union Bank 5005 N H Ave, NW 20011
Ayodeji, Francis	Rpt	New Concept Realty Serv 1200 Kennedy St, NW 20011
Barham, Angela	New	Tucker Alan Inc. 1501 K St, NW#525 20005
Benjamin, James	Rpt	U.S. Court of Appeals 717 Madison Pl, NW 20439
Benjamin, Lisa C. A.	Rpt	Anderson Kill & Olick 1275 K St, NW#1101 20005
Berkely, Bettie L.	New	D H S/801 E Bdg 2700 MLK Ave, SE 20032
Bowman, Jr., Levi	New	1250 Meigs Pl, NE#4 20002
Brown, Thurkesha	New	Combined Properties 1255 22 nd St, NW6thFl 20037
Bryant, Bettie F.	Rpt	U.S. Marshals Service 333 Const Ave, NW 20001
Chatman, Maxine R.	New	Chaikin & Sherman 1232 17 th St, NW 20036

Clapp, Edward W.	New	Democratic Senatorial Camp 120 Md Ave, NE 20002
Climpson, Michaela D.	New	Wash Fine Properties 3201 N Mex Ave, NW 20016
Cole, Jerolyn D.	Rpt	Community Connections 801 Pa Ave, SE#201 20003
Cummings, Donna T.	Rpt	F B I 601 4 th St, NW 20535
Davis, Oletha	New	CitiBank 1775 Pa Ave, NW 20006
Edley, Kimberly K.	Rpt	3192 Westover Dr, SE 20020
Edwards, Jerome	New	CitiBank 1775 Pa Ave, NW 20006
Ellis, Donna	Rpt	House of Ruth 5 Thom Circle, NW 20005
Fischer, Jessica	New	Chaikin & Sherman 1232 17 th St, NW 20036
Fleming, Heather M.	New	Malchow Schlackman Hoppey 1101 14 th St, NW#300 20005
Franklin, Wanda C.	New	Dept of the Interior 1849 C St, NW 20240
Garg, Veneet	New	Heritage Reporting 1220 L St, NW#600 20005
Guerre, Elizabeth	Rpt	U.S. Court of Appeals 717 Madison Pl, NW 20439
Guthrie, David P.	New	Washington Hospital Ctr 110 Irving St, NW 20010

Halsey, Willlliam G.	Rpt	Rock Creek Cemetery RockCrk ChRd&WebSt,NW 20011
Hammock, Jr., A. Statton	Rpt	O'Brien Butler et al 888 17 th St,NW 200006
Hendrick, Karen S,	Rpt	U.S. Court of Appeals 717 Madison Pl,NW 20439
Hinton, Francis L.	New	Police F C U 300 Indiana Ave,NW 20001
Hosken,Jr., Edward W.	Rpt	U.S. Court of Appeals 717 Madison Pl,NW 20439
Jerome, E. Vanessia B.	New	Murchison Realty 6837 4 th St,NW 20012
Kabre, Jean R.	New	Lincoln Property 101 Const Ave,NW 20001
Kiefer, Nancy J.	Rpt	World Resources Inst 10 G St,NE#800 20002
Lamont, Norma S.	Rpt	G W University Law School 2000 G St,NW 20052
McBee, Tina	New	Natl Assoc/Police Organiz 750 1 st St,NE#920 20002
McCleary, Michael	Rpt	Willard InterContinental 1401 Pa Ave,NW 20004
McLeod, Kim	New	Washington Hosp Ctr 110 Irving St,NW 20010
Marlett, Linda D.	Rpt	F B I 601 4 th St,NW 20535
Marshall, Wendy R.	New	Creative Associates Intl 5301 Wisc Ave,NW#700 20015

Matthews, Linda	Rpt	Children's Hospital 111 Michigan Ave,NW 20010
Mickey, Anne E.	Rpt	Sher & Blackwell 1850 M St,NW#900 20036
Miles, Kelli A.	New	Mayer Brown Rowe Maw 1909 K St,NW 20006
Montes, Edna C.	New	Combined Properties 1255 22 nd St,NW6thFl 20037
Morgan, Mary L.	New	1259 Van Buren St,NW 20012
Myles, Corron J.	New	Washington Hospital Ctr 110 Irving St,NW 20010
Ogwe, Rosemary	New	CitiBank 1400 G St,NW 20005
Pasley, Tina C.	New	Clements & Company 1660 L St,NW9thFl 20036
Porter, Rosemary	New	Marsh Affinity Group Serv 1255 23 rd St,NW#300 20037
Raffaele, Rebecca L.	New	Natl Assoc/Home Care 228 7 th St,SE 20003
Ross, Lillian E.	Rpt	2320 Monroe St,NE 20018
Stadel, Charlyne L.	Rpt	Miller & Chevalier 655 15 th St,NW#900 20005
Van Veen, Alex M.	Rpt	U.S. Court of Appeals 717 Madison Pl,NW 20439
Vines, Marie	New	Stinson Morrison Hecker 1150 18 th St,NW#800 20036

Walker, Sandra Dee R.	Rpt	OrrickHerringtonSutcliffe 3050 K St,NW#200 20007
Ward, Ellen Brewster	Rpt	Cornerstone 1828 Jefferson Pl,NW 20036
Workman, Odessa M.	Rpt	433 Evarts St,NE#1 20017
Ziska, Loreen T.	Rpt	U B C J A 101 Const Ave,NW 20001

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

H

Application No. 16553-H of the George Washington University, pursuant to 11 D.C.M.R. § 3104.1, for a special exception for the review and approval of the University Foggy Bottom Campus Plan – Years 2000-2010 under Sections 210 and 507.

HEARING DATE: May 6, 2003

DECISION DATE: May 6, 2003

ORDER DENYING MOTION FOR STAY

Preliminary Matters. Following the Board's March 29, 2001 final Order in this proceeding, the George Washington University ("University") filed a petition for review with the District of Columbia Court of Appeals. It also filed a civil action in the United States District Court for the District of Columbia against the Board, its members, the District of Columbia, and Mayor Anthony Williams. On June 15, 2001 the district court issued a preliminary injunction preventing enforcement of Condition No. 9 of the March 29, 2001 Board Order during academic year 2001-2002, or until further order of the court.

After the issuance of the preliminary injunction by the district court, the Office of the Corporation Counsel, with the consent of the Board, filed a motion in the District of Columbia Court of Appeals to remand the case to the Board for further consideration of the Board's decision in light of the preliminary injunction. On July 31, 2001, the Court of Appeals remanded the case without limitation as to the scope of the remand proceeding. The Board held evidentiary hearings on September 17 and 21, 2001, issued a proposed Order, and then a Final Order on Remand, effective January 23, 2002, that incorporated and adopted the March 29, 2001 Order, except as revised.

The University again sought a preliminary injunction before the district court and the parties filed cross motions for summary judgement. On April 12, 2002, the district court issued a memorandum and order finding that all of condition 9 (except the unchallenged reporting requirement) and condition 10 violated substantive due process. However, no injunction was issued, without prejudice to a renewed motion should the Board fail or threaten to fail to honor the rulings.

The University also sought review of the Final Order on Remand in the District of Columbia Court of Appeals. On May 20, 2002, the Court, acting on a joint motion, consolidated the University's two appeals and held them in abeyance pending developments in the federal courts. These appeals did not move forward again until nearly a year later, after February 4, 2003, the date of the decision of the United States Court of Appeals rejecting the University's constitutional claims. *See George*

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Washington University v. District of Columbia, 318 F.3d 203 (D.C. Cir. 2003). In the interim, the University did not seek any relief from this Board until after the District of Columbia Court of Appeals denied its motion for a stay in that forum without prejudice should the Board deny a subsequently made University request for a stay.

On April 1, 2003 the University filed a motion requesting a stay of enforcement of Conditions 9 and 10 of the Final Order on Remand pending review by the District of Columbia Court of Appeals. By memorandum dated April 2, 2003, the Office of Zoning informed the parties that the Board would consider the motion at its regularly scheduled public meeting on May 6, 2003, with responses to the University's motion due April 15, 2003 and the University's reply due April 22, 2003. On April 14, 2003, ANC 2A requested an extension until April 23, 2003 so that the motion could be considered at the ANC's regularly scheduled monthly meeting on April 22, 2003. The University did not object to the extension, provided that its reply could also be filed one week past the deadline set by the Board. At its May 6, 2003 public meeting, the Board received into the record both the ANC's response, filed April 23, 2003, and the University's reply, filed April 30, 2003.

Motion for stay. The University asserts that "enforcement of Conditions 9 and 10 today would require the University to acquire immediately over 1,000 beds in neighborhoods outside of Foggy Bottom, in the middle of an academic year, when all of the University's undergraduates are already housed." Further, according to the University, "those beds would only theoretically be able to be used, if at all, for one academic year, *i.e.*, until the Fall of 2004, when the University's expedited construction of all of the on-campus beds required under the Order [*i.e.*, the Final Order on Remand] is scheduled to be complete." The University asserts that it "has attempted in good faith to develop the number of beds called for in the BZA order," but that "despite its expedited construction efforts, the University is unable to immediately comply with these requirements. . . ." The University contends that "[i]mmediate enforcement of such punitive measures will in no way advance the BZA's goal of increasing the number of on-campus beds constructed by the University."

In opposing the motion for stay, ANC 2A asserts that the University has had ample opportunity to comply with the Board's Final Order on Remand but has instead continued to enroll additional students, making compliance now more difficult. The ANC also argues that the University is unlikely to "lose its latest attempt to challenge this Board's order before the D.C. Court of Appeals. . . ." By a vote of 3-2-1 at its public meeting on April 22, 2003, ANC 2A adopted a resolution opposing the University's motion for stay on grounds including that "the reasons and difficulties outlined in the Motion do not justify the failure of the University to comply with the Order."

In its reply, the University again asserts its "extensive efforts to comply with the BZA's housing requirements" and rejects the ANC's claim that "enforcing Conditions 9 and 10

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at this stage of the proceedings, pending the Court of Appeals' decision on this matter, will in anyway further the BZA's stated objectives." The University also contends that its continued development of non-residential projects, in parallel with its development of on-campus housing, would not affect its ability to comply, or the timeliness of compliance, with the BZA's housing requirements, citing especially "the much-needed (and long-planned) new School of Business" and "the serious impact on the school if it is precluded from beginning construction."

To prevail on a motion for stay pending appeal, the party seeking the stay must demonstrate that it is likely to prevail on the merits of the appeal, that irreparable injury will result if the stay is denied, that the opposing parties will not be harmed by a stay, and that the public interest favors the granting of a stay. *See Kuflom v. District of Columbia Bureau of Motor Vehicle Services*, 543 A.2d 340, 344 (D.C. 1988) (administrative agency required to consider the four specified factors in considering a motion for a stay). For the reasons discussed below, the Board concludes that the University has not satisfied its burden of proof with respect to its requested stay, and therefore the motion to stay enforcement of Conditions 9 and 10 is denied.

The University has not demonstrated that it is likely to prevail on the merits in the case pending before the D.C. Court of Appeals. The Board has reviewed the brief filed on its behalf before the District of Columbia Court of Appeals. Based on that review, the Board believes that the Final Order on Remand is being vigorously defended and is likely to be affirmed.

Nor has the University demonstrated that irreparable injury will result if the stay is denied, notwithstanding its assertion that the conditions are delaying construction of its "much needed" business school and have prevented issuance of a certificate of occupancy for an expansion of the art school. The University is perhaps inconvenienced – but is not irreparably harmed – by enforcement of the conditions of approval of its campus plan. The Board is not persuaded by the University's repeated references to the "immediate" nature of the requisite compliance. The University has had ample time to pursue compliance with Conditions 9 and 10, and could have avoided the need to start "immediately" by taking additional steps to achieve compliance earlier.

Essentially, the University argues that despite its good faith efforts, the conditions are not capable of being complied with. This argument, if true, should be made to the Zoning Commission as part of a request to amend the campus plan due to unforeseen hardship preventing compliance with the conditions, including the interim measures set forth in the Final Order on Remand to phase in the requirements of Conditions 9 and 10. It is not a proper basis for granting a stay.

Conversely, the interests of opposing parties would be harmed by a stay, and, for the same reasons, the public interest does not favor granting of a stay. Conditions 9 and 10 are integral to the campus plan conditionally approved by the Board in its Final Order on

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Remand as a means to protect the continued viability of the permanent residential community in the Foggy Bottom/West End area. The conditions at issue focus the University's attention and resources on providing the requisite additional student housing on campus, or outside the Foggy Bottom/West End area during the interim period, and attempt to restrain the University's expansion and attendant conversion of permanent residential buildings in nearby off-campus neighborhoods to student housing. The public interest and the interests of the opposing parties in preventing further expansion of university use into the surrounding community off-campus remain, and militate against the grant of the requested stay.

The public interest also favors denial of the requested stay in light of the Board's interest in upholding the validity of its prior orders and reaffirming its decision to approve the University's campus plan subject to certain conditions. The requested stay would preclude enforcement of those conditions, thereby undermining the Board's decision and allowing the University to proceed with nonresidential projects on campus without consequence for its noncompliance with the conditions adopted by the Board to ensure that the approved campus plan was consistent with the requirements of § 210 of the Zoning Regulations.

For the reasons stated above, the Board concludes that the University has not met its burden of proof. It is hereby **ORDERED** that the motion for a stay is **DENIED**.

VOTE: 3-1-1 (Geoffrey H. Griffis, Carol J. Mitten, and David A. Zaidain to deny the motion; Curtis L. Etherly, Jr. opposed; one vacancy.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Decision and Order and authorized the undersigned to execute this Decision and Order on his or her behalf.

FINAL DATE OF ORDER: MAY 19 2003

UNDER 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBSECTION 3125.6 OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. MN/rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 16967 of Government of the District of Columbia, pursuant to 11 DCMR § 3104.1, for a special exception from the penthouse set-back provisions under section 411 (840.3), and a variance from the building height requirements under subsection 840.1, to allow the construction of a two story building used for trash truck storage and administrative office space in the C-M-1 District at premises West Virginia Avenue and 15th Streets, N.E. (Square 4092, Lot 5).

HEARING DATE (S): February 18, 2003, April 15, 2003

DECISION DATE: May 13, 2003

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 5B, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP). The subject property is located within the jurisdiction of ANC 5B. ANC 5B, which is automatically a party to the application, did not participate in the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for special exceptions pursuant to 11 DCMR §§ 3104.1, 411 (840.3), and a variance under 11 DCMR § 3103.2 from the strict application of the requirements of §§ 840.1. No party appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the Office of Planning report filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR §§ 3104.1, for a special exception under sections 411 (840.3), that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to

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affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2, 840.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: **4-0-1** (Geoffrey H. Griffis, Peter G. May, Curtis L. Etherly, Jr., David A. Zaidain to grant, the third mayoral appointee not present not Voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Order.

FINAL DATE OF ORDER: MAY 14 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS

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THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17011 of American Association of Homes and Services for Aging, pursuant to 11 DCMR § 3104.1, for a special exception to deviate from the ground floor designated retail and service area provisions under sections 1302.4, and 1304.1, to allow a residential real estate office in the WP/C-2-A District at premises 2519 Connecticut Avenue, N.W. (Square 2202, Lot 116).

Note: The Board determined that the application requires special exception relief and not variance relief as requested in the alternative by the Applicant.

HEARING DATE: May 13, 2003

DECISION DATE: May 13, 2003 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 3C submitted a letter in support of the application. The Board determined that the ANC letter could not be given great weight as it did not meet the requirements under 11 DCMR § 3115. The Woodley Park Community Association (WPCA) wrote a letter in support of the application with the condition that the Board incorporate in its order the WPCA agreement from BZA Order No. 16355. The Board incorporated only those conditions of the agreement that are within its jurisdiction to require. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under §§ 1302.4 and 1304.1. No persons or entities appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

BZA APPLICATION NO. 17011

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Based upon the record before the Board and having given great weight to the OP, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 1302.4 and 1304.1, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED** subject to the following **CONDITION(S)**:

1. The Applicant shall maintain the awnings over all ground floor windows and the entrance to the rental space.
2. The Applicant shall ensure that the interior entrance bay lighting and any lighting on the exterior of the rental space is illuminated until 10 pm every night in a manner that is visible from the street.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., David A. Zaidain and James H. Hannaham to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: **MAY 20 2003**

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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